## **REMARKS – General**

*Double Patenting Rejection*:

The most recent Office Action objects to claim 14 under 37 CFR 1.75 as being a substantial duplicate of claim 9. Applicant respectfully traverses the rejection.

Applicant respectfully notes that claim 9 recites the limitations of claim 8, wherein the claim 8 element of receiving *comprises* receiving a radio frequency signal for a frame on a forward dedicated control channel. By contrast, claim 14 recites the method of claim 8, i.e., the five steps and conditional sixth step of claim 8, *further comprising* receiving a radio frequency signal for a frame on a forward dedicated control channel. Thus, claim 14 recites an additional step beyond that recited in claim 9. Accordingly, the claims are not duplicates. Reconsideration of the objection is respectfully requested.

*Claim Rejections under 35 USC §102*:

The Office Action rejects claims 1-5, 15-21, 28, and 32-35 under 35 USC §102(b) as being anticipated by Needham et al., US Pat. No. 6,188,767, hereinafter "Needham." Applicant respectfully traverses the rejection.

MPEP §2131, which states, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). The test is the same for a method or process. Anticipation requires identity between the claimed process and a process of the prior art. The claimed process, including each and every step thereof, must have been described or embodied, either expressly or inherently, in a single reference. *See, e.g., Glaverbel SA v. Northlake Mkt'g & Supp., Inc.,* 45 F.3d 1550 (Fed. Cir. 1995). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by one of ordinary skill in the art to which the invention pertains. *See, e.g., Scripps Clinic & Res. Found. V. Genentech, Inc.,* 927 F.2d 1565 (Fed. Cir. 1991). Moreover, "every element of the claimed invention must literally be present, arranged as in the claim…The identical invention must be shown in as complete detail as is contained in the patent claim." *See, e.g., Richardson v. Suzuki Motor Company Co.,* 868 F.2d 1226, 1236 (Fed. Cir. 1989).

Applicant's claim 1 recites in relevant part the following (with emphasis added by Applicant):

- *extracting* a unique identifier *from a received scrambled signal*; and
- examining the unique identifier *that was extracted from the scrambled signal* to determine if the signal is intended for the communication device.

The Office Action submits that Needham teaches Applicant's limitations set forth above substantially at col. 5, lines 5-33. Specifically, the Office Action submits that Needham teaches extracting a talk group ID from a received scrambled signal and a mobile device using the extracted signal to determine if the call is intended for it. Applicant respectfully disagrees.

Contrary to the assertions of the Office Action, the talk group ID is not extracted from a received scrambled signal that has been demodulated. Instead, as taught by Needham, that the talk group ID is sent *prior* to transmission of a scrambled signal. This is because knowledge of the talk group ID is a prerequisite for receiving scrambled signals in the teaching of Needham.

Needham teaches this throughout the specification. A first step of Needham's method is "…identifying a group identifier…" Needham, col. 3, lines 26-27. This group identifier is not embedded in scrambled messages, but is rather used to *create the scrambling code*. "This group identifier is then used to generate a scrambling code for use in encoding, at the base station, and decoding, at the plurality of communication units, the communication information that is transmitted." Needham, col. 3, lines 28-31. "By way of example, when a group call is targeted for talkgroup 502, the base station 501 uses a group identifier corresponding to talkgroup 502 to permute the appropriate scrambling code for the forward transmissions." Col. 4, lines 27-40.

Decoding cannot be accomplished without the group identifier. Needham states the base station must transmit the group identifier *prior* to transmitting a scrambled signal at col. 4, lines 47-49 when describing the operation of the base station. "As part of this call set-up procedure, the base station *sends the identifier for the target talkgroup, so that members of that talkgroup are able to receive the call*." *Id.* "Hence, the base station would inform the subscriber units in the talkgroup of the unique Walsh code and short code employed, in order to direct them to the first channel, and allow them to receive the PN encoded information." Needham, col. 4, lines 53-56. "[T]he base station thereafter generates (609) a long code using the talkgroup identifier corresponding to the group call request. The communication information is then encoded (611) using the long code…" Needham, col. 4, lines 57-60.

Turning to the operation of the mobile station, which is relied upon by the Examiner, it is clear that the group identifier is received *prior* to any scrambled signals. "As mentioned earlier, *the base station sends the talkgroup identifier, i.e., the MS receives the talkgroup ID as part of the call set-up*. After identifying the target talkgroup, a determination (710) is made as to whether or not the mobile station is a member of the identified talkgroup. If the mobile station is not a member of the talkgroup, the routine is exited. If the mobile station is found to be a member of the identified talkgroup the talkgroup (e.g., via a simple memory retrieval at the mobile station, as is known), the long code is *then generated (712) using the relevant talkgroup identifier*. The mobile station *then decodes (714) the forward link communication* information *and demodulates (716) the decoded communication information*." Needham, col. 5, lines 5-33.

By contrast, Applicant's present invention extracts a unique identifier *from* a scrambled signal. For example, the unique identifier can be included in the power portion of the header of the scrambled message. Applicant's specification as published, paragraphs [0017]-[0021].

Since Needham sends the unique identifier *prior* to sending the scrambled signal, rather than *in* the scrambled signal, Applicant respectfully submits that the rejection to claim 1 under 35 USC §102 is overcome. As each of independent claims 8, 15, 28, and 32 recite a similar limitation, i.e., the inclusion of a unique identifier in a scrambled signal rather than transmission of a unique identifier prior to transmission of a scrambled signal, Applicant respectfully submits that the rejections under 35 USC §102 are similarly overcome. Applicant respectfully requests reconsideration of the rejection in light of these comments.

### *Claim Rejections under 35 USC §103*:

The Office Action rejects claims 8-12 and 14 as being obvious in view of Needham combined with Kim et al., US Published Patent Application No. 2003.0188252, hereinafter "Kim." Applicant respectfully traverses the rejection.

Applicant has shown above that Needham fails to teach incorporating a unique identifier into a scrambled message. To the contrary, Needham teaches sending the unique identifier prior to sending a scrambled signal because the unique identifier is required to receive scrambled signals. The addition of Kim to Needham fails to correct this deficiency because Kim also fails to teach this limitation. Accordingly, the Office Action has failed to identify a combined teaching that makes known each and every feature of the claim. Further, the combination teaches away from Applicant's invention by teaching the transmission of a unique identifier *prior* to transmitting scrambled messages. "A prima facie case of obviousness may also be rebutted by showing that the art, *in any material respect*, teaches away from the claimed invention." MPEP §2144.05, citing *In re Geisler*, 116 F.3d 1465, 1471 (Fed. Cir. 1997).

Accordingly, Applicant respectfully submits the rejection is overcome. Applicant respectfully requests reconsideration in light of these comments.

Claims 6, 7, 13, 29, and 31 are rejected under 35 USC §103 as being obvious in view of Needham, Kim, and Agrawal et al., US Pat. No. 6,748,234, herein after "Agrawal." Applicant respectfully traverses the rejection.

Applicant has shown above that the combination of Needham and Kim teaches away from Applicant's invention by teaching the transmission of a group identifier prior to transmitting scrambled codes. The addition of Agrawal fails to correct this deficiency. Specifically, with respect to the principle reference, the reference speaks of transmitting a unique identifier prior to transmitting scrambled messages. It is not clear under the disclosed circumstances how the addition of either Kim or Agrawal would achieve Applicant's invention without disrupting the desired group distribution scheme taking place in the reference. Accordingly, the Office Action fails to fully support and or describe a manner which makes clear how either one or all of the reference make known or obvious each an every feature of independent claims 1, 8, or 28, from which these claims depend. Applicant respectfully submits the rejection is therefore overcome. Applicant respectfully requests reconsideration in light of these comments.

Claim 22 is rejected under 35 USC §103 as being obvious in view of Needham combined with Padovani et al., US Published Patent Application No. 2003/0063583, hereinafter "Padovani." Applicant respectfully traverses the rejection.

Applicant has shown above that Needham fails to teach incorporating a unique identifier into a scrambled message. To the contrary, Needham teaches sending the unique identifier prior to sending a scrambled signal because the unique identifier is required to receive scrambled signals. The addition of Padovani to Needham fails to correct this deficiency because Padovani also fails to teach this limitation. Accordingly, the Office Action has failed to identify a combined teaching that makes known each and every feature of the claim. As with Needham and Kim, the combination of Needham and Padovani teaches away from Applicant's invention by teaching the transmission of a unique identifier *prior* to transmitting scrambled messages. Applicant respectfully submits the rejection is overcome. Applicant respectfully requests reconsideration in light of these comments.

Claims 23-27 have been rejected under 35 USC §103 as being obvious in view of Needham. Applicant respectfully traverses the rejection.

Applicant has shown above that Needham fails to teach incorporating a unique identifier into a scrambled message. To the contrary, Needham teaches sending the unique identifier prior to sending a scrambled signal because the unique identifier is required to receive scrambled signals. Needham therefore teaches away from Applicant's invention by teaching the transmission of a unique identifier *prior* to transmitting scrambled messages. Accordingly, Applicant respectfully submits the rejection is overcome. Applicant respectfully requests reconsideration in light of these comments.

## CONCLUSION

For the above reasons, Applicant believes the specification and claims are now in proper form, and that the claims all define patentably over the prior art. Applicant believes this application is now in condition for allowance, for which it respectfully submits.

Respectfully submitted,

Philip H. Burrus, IV
Attorney for Applicants
Registration No.: 45,432
404-797-8111
404-880-9912 (fax)
pburrus@burrusiplaw.com